

SECTION VIII

PROJECT EQUIPMENT

8.1. Each Participant may loan without charge Project Equipment identified as being necessary for implementing this MOU. Approval for all loans will be in accordance with national procedures.

8.2. Project Equipment loaned will be used by the receiving Participant only for the purposes of carrying out this MOU. Project Equipment will remain the property of the providing Participant. In addition, the receiving Participant will maintain Project Equipment in good order, repair, and operable condition and will return it in operable condition and in as good condition as received, normal wear and tear excepted. The receiving Participant will bear the cost of any damage to (other than normal wear and tear) or loss of Project Equipment. In no event will such cost exceed replacement cost less an amount determined to represent reasonable wear and tear.

8.3. The Participants will make every effort to ensure that the Project Equipment is furnished in a serviceable and usable condition according to its intended purpose. However, the providing Participant makes no warranty or guarantee of fitness of the Project Equipment for a particular purpose or use, and make no commitment to alter, improve, or adapt the Project Equipment or any part thereof.

8.4. The providing Participant, at its expense, will deliver the Project Equipment to the receiving Participant at a mutually approved location(s). Responsibility for Project Equipment will pass from the providing Participant to the receiving Participant at time of receipt. Any further transportation is the responsibility of the receiving Participant.

8.5. The providing Participant will furnish the receiving Participant such information as is necessary to enable the Project Equipment to be used.

8.6. The receiving Participant will inspect and inventory the Project Equipment upon receipt. The receiving Participant will also inspect and inventory the Project Equipment prior to its return (unless the Project Equipment is to be expended or consumed).

8.7. The receiving Participant will return Project Equipment at its expense to the providing Participant at a mutually approved location. Any further transportation is the responsibility of the providing Participant.

8.8. The receiving Participant will provide written notice of consumption or expenditure of Project Equipment. In the event the intended consumption or expenditure does not occur, the receiving Participant will, unless otherwise determined by the providing Participant, return the Project Equipment to the providing Participant at a mutually approved location. Any further transportation is the responsibility of the providing Participant.

8.9. The Participants will ensure, by all reasonable means, the protection of intellectual property rights in Project Equipment.

8.10. Any Project Equipment which is jointly acquired on behalf of the Participants for use under this MOU will be disposed during the Project or when the Project ends as determined by the SC.

8.11. Disposal of jointly acquired Project Equipment may include a transfer of the interest of the Participants in such Project Equipment to one Participant, or the sale of such Project Equipment to a Third Party in accordance with Section XIII (Third Party Sales and Transfers). The Participants will share the *consideration from jointly acquired Project Equipment transferred or sold to a Third Party* in the same ratio as costs are shared under this MOU.

8.12. Project Equipment which cannot be identified at the time of MOU signature will be documented in a list to be developed and maintained by the Program Manager(s) in the format at Appendix 1 to Annex A.

8.13. In accordance with Section XIII (Third Party Sales and Transfers), Project Equipment will not be re-transferred by the receiving Participant to a Third Party without the prior written consent of the providing Participant.

SECTION IX

DISCLOSURE AND USE OF PROJECT INFORMATION

9.1. General

9.1.1. The Participants recognize that successful collaboration depends on full and prompt exchange of information necessary to carry out the Project and the use of its results. The nature and amount of Project Information to be acquired will be in accordance with this MOU and in particular Section II (Objectives), Section III (Scope of Work), and Section VI (Contractual Arrangements). Subject to the intellectual property rights the Participants are accorded under this MOU, title to Project Foreground Information generated by a Participant or its Contractor will reside with that Participant and/or its Contractors, in accordance with that Participant's national laws, regulations and policies.

9.2. Project Foreground Information

9.2.1. Disclosure: Project Foreground Information will be made available to each Participant without charge.

9.2.2. Use: Each Participant may use or have used Project Foreground Information without charge only for its Defense Purposes; use for any other purpose will be subject to the prior written consent of the other Participant. The Participant generating such information will also retain its rights of use thereto. The sale or other transfer to Third Parties of Project Foreground Information is subject to the provisions of Section XIII (Third Party Sales and Transfers) of this MOU. The Participants will acquire the legal rights to use Project Foreground Information generated by Contractors for any Third Party sale or transfer.

9.3. Project Background Information

9.3.1. Disclosure: Each Participant, upon request, will disclose to the other Participant, any relevant Project Background Information provided that:

9.3.1.1. Such Project Background Information is necessary to or useful in the Project, and the Participant in possession of the information will determine whether it is "necessary to" or "useful in" the Project;

9.3.1.2. Such Project Background Information may be made available without incurring liability to holders of proprietary rights; and

9.3.1.3. Disclosure is consistent with national disclosure policies and regulations of the furnishing Participant.

9.3.2. Use: Project Background Information disclosed by one Participant to the other may be used without charge by the other Participant for Project purposes only; however, the furnishing Participant will retain all its rights with respect to such Project Background Information.

9.4. Alternative Uses of Project Information

9.4.1. Any Project Background Information provided by one Participant will not be disclosed or used by the other Participant except for the purposes set forth in this MOU, unless otherwise consented to in writing by the providing Participant.

9.4.2. The prior written consent of the other Participant will be required for the disclosure or use of Project Foreground Information for purposes other than those provided for in this MOU.

9.5. Patents

9.5.1. Each Participant will include in its Project-related contracts a provision governing the disposition of rights in regard to Project Inventions and Patent rights relating thereto, which either;

9.5.1.1. Provides that the Participant will hold title to all Project Inventions together with the right to make Patent application for the same, free of encumbrance from the Contractor; or

9.5.1.2. Provides that the Contractor will hold title (or may elect to retain title) for Project Inventions together with the right to make Patent applications for the same, while securing for the Participant a license for the Project Inventions, and any Patents therefor, on terms in compliance with the provisions of paragraph 9.5.2. below.

9.5.2. In the event that a Contractor holds title (or elects to retain title) for a Project Invention, the contracting Participant will secure for the Participants non-exclusive, irrevocable, royalty-free licenses under all Patents secured for that invention, to practice or have practiced the patented Project Invention for Defense Purposes throughout the world.

9.5.3. Where a Participant has or can secure the right to file a Patent application with regard to a Project Invention, that Participant will consult the other Participant regarding the filing of such Patent application. The Participant having such rights will in other countries, file, cause to be filed, or provide the other Participant with the opportunity to file on behalf of the Participant holding such rights, or its Contractors, as appropriate, Patent applications covering any such Project Invention. If a Participant having filed or caused to be filed a Patent application decides to stop prosecution of the application, that Participant will notify the other Participant of that decision and permit the other Participant to continue the prosecution.

9.5.4. Each Participant will be furnished with copies of Patent applications filed and Patents granted with regard to Project Inventions.

9.5.5. Each Participant will grant to the other Participant a non-exclusive, irrevocable, royalty-free license under its Patents for Project Inventions, to practice or have practiced the Patent Project Invention for Defense Purposes throughout the world.

9.5.6. Patent applications which contain Classified Information, to be filed under this MOU, will be protected and safeguarded in accordance with the requirements contained in the NATO Agreement for the Mutual Safeguarding of Secrecy of Inventions Relating to Defense and for which Applications for Patents Have Been Made, signed on 21 September 1960, and its Implementing Procedures.

SECTION X

CONTROLLED UNCLASSIFIED INFORMATION

10.1. Except as otherwise provided in this MOU or authorized in writing by the originating Participant, *Controlled Unclassified Information* provided or generated pursuant to this MOU will be controlled as follows:

10.1.1. Such information will be used only for the purposes authorized for use of Project Information as specified in Section IX (Disclosure and Use of Project Information).

10.1.2. Access to such information will be limited to personnel whose access is necessary for the permitted use under subparagraph 10.1.1. above, and will be subject to the provisions of Section XIII (Third Party Sales and Transfers).

10.1.3. Each Participant will take all lawful steps, which may include national classification, available to it to keep such information free from further disclosure (including requests under any legislative provisions), except as provided in subparagraph 10.1.2. above, unless the originating Participant consents to such disclosure. In the event of unauthorized disclosure, or if it becomes probable that the information may have to be further disclosed under any legislative provision, immediate notification will be given to the originating Participant.

10.2. To assist in providing the appropriate controls, the originating Participant will ensure that Controlled Unclassified Information is appropriately marked. The Program Manager(s) will decide, in advance and in writing, on markings to be placed on the Controlled Unclassified Information. The originating Participant will mark Controlled Unclassified Information provided to the other Participant with a legend indicating the country of origin, the conditions of release and the fact that it relates to this MOU and that it is supplied "in confidence" or the equivalent marking.

10.3. Controlled Unclassified Information provided or generated pursuant to this MOU will be handled in a manner that ensures control as provided for in paragraph 10.1..

10.4. Prior to authorizing the release of Controlled Unclassified Information to Contractor(s), the Participants will ensure the Contractor(s) are legally bound to control such information in accordance with the provisions of this Section.

SECTION XI

VISITS TO ESTABLISHMENTS

11.1. Each Participant will permit visits to its Government establishments, agencies and laboratories, and Contractor industrial facilities by employees of the other Participant or by employees of the other Participant's Contractor(s), provided that the visit is authorized by the respective Participant and the employees have appropriate security clearances and a need-to-know.

11.2. All visiting personnel will be required to comply with security regulations of the host Participant. Any information disclosed or made available to visitors will be treated as if supplied to the Participant sponsoring the visiting personnel, and will be subject to the provisions of this MOU.

11.3. Requests for visits by personnel of one Participant to a facility of the other Participant will be coordinated through official channels, and will conform with the established visit procedures of the host country. Requests for visits will cite this MOU as the basis for the request.

11.4. Lists of personnel of a Participant required to visit, on a continuing basis, facilities of the other Participant will be submitted through official channels in accordance with agreed recurring international visit procedures.

SECTION XII

SECURITY

12.1. All Classified Information or classified Project Equipment provided for or generated pursuant to this MOU will be stored, handled, transmitted and safeguarded in accordance with the US/Canada General Security of Information Agreement of 30 January 1962, and the US-Canada Industrial Security Agreement of 8 February 1985 and any amendments thereto.

12.2. Classified Information and material will be transferred only through official government-to-government channels or through channels approved by the Designated Security Authorities (DSAs) of the Participants. Such Classified Information and material will bear the level of classification, denote the country of origin, the conditions of release, and the fact that the information relates to this MOU.

12.3. Each Participant will ensure in a manner consistent with its laws and regulations that Classified Information provided or generated pursuant to this MOU is protected from further disclosure, except as permitted by paragraph 12.8., unless the other Participant consents to such disclosure. Accordingly, each Participant will ensure that:

12.3.1. The recipient will not release the Classified Information to any government, national, organization, or other entity of a Third Party without the prior written consent of the originating Participant in accordance with the procedures set forth in Section XIII (Third Party Sales and Transfers);

12.3.2. The recipient will not use the Classified Information for other than the purposes provided for in this MOU;

12.3.3. The recipient will comply with any distribution and access restrictions on information that is provided under this MOU; and

12.3.4. The Participants will investigate all cases in which it is known or where there are grounds for suspecting that Classified Information or material provided or generated pursuant to this MOU has been lost or disclosed to unauthorized persons. Each Participant also will promptly and fully inform the other Participant of the details of any such occurrences, and of the final results of the investigation and of the corrective action taken to preclude recurrences.

12.4. The Project Manager(s) will prepare a Project Security Instruction and a Classification Guide for the Project. The Project Security Instruction and the Classification Guide will describe the methods by which Project Information and material will be classified, marked, used, transmitted, and safeguarded. The Instruction and the Guide will be developed by the Project Manager within three months after this MOU enters into effect. They will be reviewed and forwarded to the Participants' DSAs for approval and will be applicable to all government and Contractor personnel participating in the Project. The Classification Guide will be subject to regular review and revision with the aim of downgrading the classification whenever this is

appropriate. The Project Security Instruction and the Classification Guide will be approved by the appropriate DSA prior to the transfer of any Classified Information or Controlled Unclassified Information.

12.5. The DSA of the country in which a classified contract is awarded pursuant to this MOU will assume responsibility for administering within its territory security measures for the protection of the Classified Information, in accordance with its laws and regulations. Prior to the release to a Contractor, prospective Contractor, or subcontractor of any Classified Information received under this MOU, the DSAs will:

12.5.1. Ensure that such Contractor, prospective Contractor, or subcontractors and their facilities have the capability to protect the Classified Information adequately.

12.5.2. Grant a security clearance to the facilities, if appropriate.

12.5.3. Grant a security clearance for all personnel whose duties require access to Classified Information, if appropriate.

12.5.4. Ensure that all persons having access to the Classified Information are informed of their responsibilities to protect the Classified Information in accordance with national security laws and regulations, and the provisions of this MOU.

12.5.5. Carry out periodic security inspections of cleared facilities to ensure that the Classified Information is properly protected.

12.5.6. Ensure that access to the Classified Information is limited to those persons who have a need-to-know for purposes of this MOU.

12.6. Contractors, prospective Contractors, or subcontractors which are determined by DSAs to be under financial, administrative, policy or management control of nationals or entities of a Third Party, may participate in a Contract or subcontract requiring access to Classified Information provided or generated pursuant to this MOU only when enforceable measures are in effect to ensure that nationals or other entities of a Third Party will not have access to Classified Information. If enforceable measures are not in effect to preclude access by nationals or other entities of a Third Party, the respective Participant will be consulted for approval prior to permitting such access.

12.7. For any facility wherein Classified Information or material is to be used, the responsible Participant or Contractor will approve the appointment of a person or persons to exercise effectively the responsibilities for safeguarding at such a facility the information or material pertaining to this MOU. These officials will be responsible for limiting access to Classified Information or material involved in this MOU to those persons who have been properly approved for access and have a need-to-know.

12.8. Each Participant will ensure that access to the Classified Information is limited to those persons who possess requisite security clearances and have a specific need for access to the information in order to participate in this MOU.

12.9. Information or material provided or generated pursuant to this MOU may be classified as high as SECRET. The existence of this MOU is Unclassified and the contents are Unclassified.

SECTION XIII

THIRD PARTY SALES AND TRANSFERS

13.1. The Participants will not sell, transfer title to, disclose, or transfer possession of Project Foreground Information, or jointly acquired or produced Project Equipment, to any Third Party without the prior written consent of the other Participant. Furthermore, neither Participant will permit any such sale, disclosure, or transfer, including by the owner of the item, without the prior written consent of the other Participant. Such consent will not be given unless the government of the intended recipient consents in writing with the Participants that it will:

13.1.1. Not retransfer, or permit the further retransfer of, any equipment or information provided; and

13.1.2. Use, or permit the use of, the equipment or information provided only for the purposes specified by the Participants.

13.2. A Participant will not sell, transfer title to, disclose, or transfer possession of Project Equipment or Project Background Information provided by the other Participant to any Third Party without the prior written consent of the Participant which provided such equipment or information. The providing Participant will be solely responsible for authorizing such transfers and, as applicable, specifying the method and conditions for implementing such transfers.

SECTION XIV

LIABILITY AND CLAIMS

14.1. Claims arising under this MOU will be dealt with under paragraph 1b of the Agreement Between the Government of the United States of America and the Government of Canada Concerning the Establishment of Certain Mutual Defense Commitments, signed August 19, 1994.

SECTION XV

CUSTOMS DUTIES, TAXES AND SIMILAR CHARGES

15.1. Customs duties, import and export taxes and similar charges will be administered in accordance with each Participant's respective laws and regulations. Insofar as existing national laws and regulations permit, the Participants will endeavor to ensure that such readily identifiable duties, taxes and similar charges, as well as quantitative or other restrictions on imports and exports, are not imposed in connection with work carried out under this MOU.

15.2. Each Participant will use its best efforts to ensure that customs duties, import and export taxes, and similar charges are waived or otherwise administered in a manner favorable to the efficient and economical conduct of the work. If any such duties, taxes, or similar charges are levied, the Participant in whose country they are levied will bear such costs.

SECTION XVI

SETTLEMENT OF DISPUTES

16.1. Disputes between the Participants arising under or relating to this MOU will be resolved only by consultation between the Participants and will not be referred to a national court, an international tribunal, or to any other person or entity for settlement.

SECTION XVII

AMENDMENT, TERMINATION, ENTRY INTO EFFECT AND DURATION

17.1. All responsibilities of the Participants under this MOU will be carried out in accordance with their national laws. Any responsibilities that require the expenditure of funds will be subject to the availability of appropriated funds for such purposes.

17.2. Annexes to this MOU are an integral part hereof. In the event of a conflict between a Section of this MOU and any Annex to this MOU, the MOU Section will control.

17.3. This MOU may only be amended by the mutual written consent of the Participants. Annexes to this MOU may be amended by the written approval of the SC on behalf of the Participants, after having secured appropriate national approval.

17.4. This MOU may be terminated at any time upon the mutual written consent of the Participants. In the event both Participants consent to terminate this MOU, the Participants will consult prior to the date of termination to ensure termination on the most economical and equitable terms.

17.5. Either Participant may terminate this MOU upon 90 days written notification to the other Participant. Such notice will be the subject of immediate consultation by the SC to decide upon the appropriate course of action. In the event of such termination, the following rules apply:

17.5.1. The terminating Participant will continue its participation, financial or otherwise, up to the effective date of termination;

17.5.2. Each Participant will pay the costs it incurs as a result of termination; and

17.5.3. All Project Information and rights therein received under the provisions of this MOU prior to the termination will be retained by the Participants, subject to the provisions of this MOU.

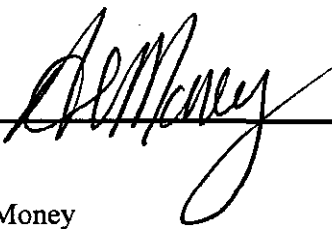
17.6. The respective rights and responsibilities of the Participants regarding Section VIII (Project Equipment), Section IX (Disclosure and Use of Project Information), Section X (Controlled Unclassified Information), Section XII (Security), Section XIII (Third Party Sales and Transfers), and Section XIV (Liability and Claims), will continue notwithstanding termination or expiration of this MOU.

17.7. This MOU, which consists of 17 Sections and 2 Annexes, will enter into effect upon signature by both Participants and will remain in effect for fifteen years, unless earlier terminated or superseded by the provisions of the O&M MOU. It may be extended by the mutual written consent of the Participants.

The foregoing represents the understandings reached between the Department of Defense of the United States of America and the Department of National Defence of Canada upon the matters referred to therein.

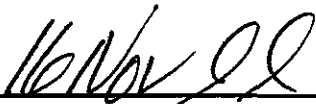
SIGNED in duplicate.

**FOR THE DEPARTMENT OF DEFENSE OF
THE UNITED STATES OF AMERICA:**



Signature

Arthur L. Money
Assistant Secretary of Defense
(Command, Control, Communications and Intelligence)



Date



Location

**FOR THE DEPARTMENT OF NATIONAL
DEFENCE OF CANADA:**

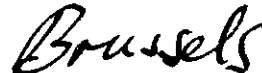


Signature

Howard C. Dickson
Assistant Deputy Minister
Information Management



Date



Location